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**Improving land administration in Mozambique: a participatory approach to  
improve monitoring and supervision of land use rights through community  
land delimitation**

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## **Abstract**

Mozambique's land policy goal is to ensure that land access to all Mozambicans is guaranteed and protected, while satisfying socio-cultural needs, promoting economic progress and serve as basis for sustainable and equitable development. Land Law enables community land rights to be registered and secured through land delimitation processes, which also contributes to reduce land conflicts and increase land investments. The paper is based on the Mozambique Community Lands Initiative (iTC) lessons learned, which focuses on improvements in both legal framework and land administration practice to ensure participatory sustainable land governance. Community Land initiative is a project supported by a group of donors, that aims to secure community land rights through delimitation activities, as a path to promote rural development.

Land allocation to private interests, has increased at a rate of 40% from 2009 to 2012, (encompassing about 7 million hectares). Data suggests that as a result of monitoring activities, only 43% of titled areas (covering 41% of the total land titled) have been properly and fully utilized. The paper offers insights and challenges (including sharing of responsibilities and costs) to enable involvement of rural communities into the monitoring and supervision of land use rights titling, based on community delimitation process.

**Key words:** Community land rights; Land rights monitoring and supervision; Community – private partnership; Land administration

## 1. INTRODUCTION

Mozambique is registering significant economic growth (Kaarhus, 2011; Fian, 2011). However, this growth is not reflecting at the overall poverty situation of the country (Filipe *et al.*, 2011), which brings challenges to the agriculture sector, related to the population growth, estimated in 1.9 %. Agriculture faces challenges such as improving agriculture production, based on key income generating value chains, while guaranteeing food security, and development of an effective land administration system, where land conflicts are reduced and investments for rural development are boosted. These challenges fit the argument that land administration and policy can only contribute to poverty alleviation if it is part of broader approach to rural and agricultural development (Carrilho *et al.*, 2012).

The Mozambique land law has been under implementation for more than a decade (17 years), and during this period the debate has focused on securing community land use rights through community land delimitations (Carrilho *et al.*, 2012; Mei *et al.*, 2012). However, as a result of increase in pressure over land, somehow associated with the land grabbing phenomena, recent debates have been focusing on promotion of sustainable partnerships between potential investors and rural communities, who (as stated by law) hold customary land use rights within a specific territory.

The land law also focuses on securing land rights, through land demarcation and delimitation processes, which are regulated by the Decree n<sup>o</sup>. 66/98. Although, it is clear that securing rights to land and property can contribute to economic growth (DFID, 2007), it is also agreed that this requires the development and implementation of clear procedures and practical tools to ensure due diligence and to accommodate the interests of different groups and circumstances (Cotula *et al.*, 2006

In this context, the three specific objectives that the Mozambican land policy and legislation aim to attain are listed below, which are supported by a set of essential procedures and tools for participatory and equitable land administration and management, namely:

1. Community security of land tenure, through community land delimitation;
2. Community participation in decisions to allocate land to external parties (especially investors), through community consultations;
3. Community benefit sharing with investors and the State, through private-community partnerships

The combination of these three components is crucial to achieve the proclaimed goal of participatory land administration and management, and the paper discusses the procedural and practical aspects that need to be addressed in relation to each one, based on lessons learned from the Community Land Initiative (iTC) work experience in the last eight years.

Considering that the wealth and survival basis of most of the rural communities in developing countries are measured based on access to land (USAID, 2007), an appropriate mechanism to secure land tenure and reduce conflicts while promoting its sustainable use needs to be developed, based on a participatory approach for social and economic inclusion.

This paper does not focus specifically on the conflict aspect of land administration. Rather, it focuses on the opportunities created by the community land delimitation process, for improving land use rights monitoring and oversight, by building the capacity of rural communities institutions and their effective inclusion in the land administration process.

## **2. COMMUNITY LAND RIGHTS AND LAND TENURE SECURITY MECHANISMS**

### **2.1 Community land delimitation**

The Mozambique land legislation emphasizes that rural communities can secure their customary rights through a delimitation process, which basically consists on geo-referencing the boundaries of the area occupied and utilized by a community. Community land delimitation practically started in the year 1999, carried out by NGOs, through externally financed development programs, assisted by the Provincial Cadastral Services (SPGC). However, challenges such as linking community land delimitations to the design and implementation of land use plans and to

investments, have not been proactively addressed by the government and are beyond the scope of NGO interventions. As a result, private sector investments and NGO assistance programmes are not integrated within coherent local development plans, that would support achievement of sustainable local and regional economies, and thus have only limited impacts on territorial planning and development.

According to DNTF reports, 271 community land delimitations have been registered from 1999 to 2009, and since then this number has been gradually increasing, as shown on the Figure 1.

**INSERT Figure 1. Number of community land delimitations (2009 – 2012)**

Source: Direcção Nacional de Terras e Florestas, Mozambique

The results indicated above are a combination of efforts by both the Government (SPGC) and other institutions to register community lands in the cadastral system. So far, three organizations have been dealing with community land delimitation in recent years, namely Community Land Initiative (iTC), Centro Terra Viva (CTV) and ORAM, all financed by external donors or international funds.

Community Land initiative (iTC) has been supporting the government by undertaking community land delimitations and related activities since 2006 (see box 1), and contributed to the increase in the numbers presented in figure 2. So far, iTC developed a participatory approach that creates real ownership of community over rights to access and use land and its natural resources. This approach, entitled social preparation, delivers results such as a community diagnosis (social-cultural structure, natural resources use and potential, and institutional arrangements), which supports the design of a community development agenda, reflecting the social and economic aspirations of the community in a timeframe ranging from 10 to 20 years.

Social preparation has been widely used since 2008 by iTC service providers, in the implementation of iTC projects. The tool (Social Preparation) was recognized during the fourth

ordinary session of the Mozambican Land Consultation Forum<sup>1</sup>, as good participatory tool that can be used to enhance community engagement towards sustainable land management.

### **Box 1. Community Land initiative: objectives and results**

#### **Community Land initiative – Objectives and Results**

Community land initiative is a Project funded by a group of donors (United Kingdom, the Netherlands, Switzerland, Sweden, Denmark and Ireland) since 2006, in the provinces of Cabo Delgado, Gaza, Manica, Sofala and Tete, and from 2009 to 2013, with additional funds from Millennium Challenge Corporation, in the provinces of Nampula, Niassa and Zambézia. The Project main objective is to secure community land use rights, through registration in the cadastral services of their limits and rights, as a contribution to promote rural development.

Main activities includes (i) Land delimitation and demarcation, based on the land law; (ii) Capacity building of rural communities; (iii) Sensitization and awareness rising in regards to land and natural resources management. These activities are implemented in a contract arrangement with selected service providers in each province.

Results from iTC support since 2006 to November 2013 are presented bellow:

- **Number of Community delimitations:** 340
- **Number of hectares secured through community delimitations:** 3,370,598
- **Number of land demarcations:** 282
- **Number of hectares secured through land demarcations:** 26,712
- **Number of supported communities:** 638
- **Number of community members supported:** 739,677
- **Percentage of women supported as community members:** 50 %

Recent efforts by the government and other stakeholders, to support partnerships between community and investors shaped iTC work. Along with above mentioned results, a compilations of iTC lessons learned was produced, which reflects evidences of key issues that can contributes to improve community – investor partnership and other land administration issues, related to community rights.

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<sup>1</sup> Land Consultation Forum (*Fórum de Consulta sobre Terra* in Portuguese) is a multidisciplinary platform managed by the Ministry of Agriculture that support policies to better address land administration issues in the country.

## 2.2 Community Consultations

Bringing community to express their opinion on a specific commercial land use project before attribution of DUATs, was one of the most important achievements (Mei *et al.*, 2013) and improvements of the 1997 Mozambican land law. It was a milestone towards a more inclusive land administration system. As mentioned by Polack *et al.* (2013), the land law influences improvements for accountability. Therefore, development of inclusive legislation is a key step in promoting a participatory approach on land administration. Obviously, the second key step is ensuring that the legislation is implemented towards the established goals.

The land law obliges the investor or any other individual or group of individuals requesting a plot of land to get prior and written consent of the community before using the land. The consultation process involves (i) the Government, mainly the local Government (District administration), (ii) the communities, individual members and their representatives (traditional leaders), and (iii) the investor, or the individual (or group of individuals). The Government has been challenged to improve community consultation process as it proven not to be efficient in a land pressured country, where land conflicts are still very much evident at rural communities.

Various authors, such as Durang *et al.* (2004), The Oakland Institute (2011), Mei *et al.* (2013), and Carrilho (2013), indicate weak consultation processes as one of the key reasons for the failure in recognizing and protecting community rights over land use in face of external investors, and failure to set a participatory land administration system. Main mistakes include weak or no community representation, weak or no share of relevant information regarding proposed investments, and lack of integration into the actual and future community land use pattern and plan.

In 2011, the Ministry of Agriculture issued a “Diploma Ministerial” that adopted new procedures regarding community consultations, and three main changes can be highlighted from the document:

- Phases of consultation. The document determines that at least two meetings are required to a successful community consultation. The first is to share and present information

regarding the project details, and the size and limits of the required land. The second meeting, which must occur 30 days after the first, is to get community feedback and opinion on availability of land for the proposed project. This Diploma is an attempt to implement the principle of Free, Prior and Informed Consent (FPIC), a matter that hasn't been properly addressed neither in the legislation nor in the practice.

- Participation. The Diploma imposes improvements in the participation of community level representatives, and determines that the Locality Consultative Councils must be also part of the various groups involved in the community consultation.
- Payment of caution fee. The document states that the applicant shall deposit a caution fee to cover all the community consultation expenses, which can be recovered if the consultation does not occur.

Two years after the approval of the Diploma, concerns about the quality of community consultation are still raised by different actors. Issues about high costs involved, weak participation of community representatives and weak capacity of rural communities to understand the land law and analyze investments plans, continue to be raised related to community consultation processes. No clear evidence on the application of bail has been seen, and cadastral services at provincial level do not provide evidences of its relevance on the improvement of community consultation.

Many stakeholders perceive that the improvement of community consultation processes could resolve most of the current weaknesses, inefficiencies and conflicts characterizing land allocations for investors. Therefore, it is important that the implementation of the “*Diploma Ministerial 158/2011*” is systematically monitored by the cadastral services and other actors.

To be relevant and effective, community consultations must include practical steps to ensure communities are adequately prepared to understand the issues involved in a project proposal. This includes access to information about the project, legal obligations and procedures for assessment of social and environmental impacts, and economic opportunities and risks associated with the project. Consultation meetings should be conducted in a way that ensures all voices are heard and all concerns are registered, so that the three objectives of land administration and



management indicated above are met. Specific legal aspects stand in need of attention and better supervision and enforcement: i) legal requirements for at least two community consultation meetings to be organized have been interpreted by both government and investors to mean that only two consultations are enough in any circumstances. ii) the objective of community consultations, as stated in the Land Law Regulations, to “*establish if the land is free and without occupants*”, leaves room for misinterpretation as this formulation does not link the consultation meetings to the Land Law’s objectives of enabling tenure security, community participation in decision making and facilitation of investment partnerships.

Improved community consultation guidelines (under preparation by the National Land Consultative Forum) are therefore required, accompanied by legislative revisions to grant them legal force. The Guidelines should state clearly that in the context of consultations for land use rights allocations or investments, be public or private, (a) communities are properly prepared in advance of consultation meetings – and assisted during and after such meetings, if where necessary- (b) as many consultation meetings as required are organized to ensure positive outcomes, and (c) community consultation meetings must explore all alternative models of interaction between investors and communities that prioritize the maintenance of land use rights on community domain and the establishment of concrete and meaningful partnerships. ITC and other partner NGOs and service providers, can provide a useful contribution for these steps to be properly followed.

### **2.3 Community-private partnerships in an agriculture-based country**

Agriculture sector contribution to the Gross Domestic Product (GDP) has been increasing at a rate of 7 % from 2003 to 2008 (Ministério de Agricultura, 2010) and its gross contribution to the GDP rose from 24% in 2009 (Ministério de Agricultura, 2010) to 25% in 2012. Various factors can be associated to this significant trend, such as effort by the Government to support the agriculture sector, through access to funds to reduce input goods at rural areas. Since 2007/2008, large-scale land acquisition associated to agriculture investments has also been increasing in Mozambique (TerraFirma, 2013), as a result of global increases in food prices,

interest in bio-fuels development, and a drive to access new investment opportunities in agriculture and natural resources.

According to the “Censo Agro-pecuário” from the National Statistic Institute, it is estimated that some 3.8 million farmers, of which 99 % are less than 10 ha, hold 5.6 million hectares of land and 72% are less than 2 ha (INE, 2011). This data confirms that Agriculture in Mozambique is mainly small-scale based (Kalaba, 2012; FIAN, 2010).

As stated in the land law regulations, one of the main desired outcomes from community consultation meetings is the establishment of partnerships between investors and communities. Assessments undertaken throughout the country have shown that this outcome is seldom pursued and that commitments assumed by investors during these meetings are often not registered in the minutes (much less translated into mandatory agreements). In our opinion, potential partnerships deserve careful and careful consideration. For example, it is important that in the discussions of potential partnerships, the value of the land and the value of the existing land use rights are properly assessed; community livelihoods and economic opportunities at risk due to loss of access to land and other resources must also be evaluated, and the long-term revenues likely to be accrued by investors must be equitably compared and related to the benefits selected for local communities. Furthermore, even in situations where delimitations didn't take place, sustainable partnerships need to be considered to avoid financial investment risks, due to conflicts resulting from disrespect of community rights, as stated by Leon *et al.* (2013). Formal registration of written agreements is recommended, including agreed implementation, monitoring and accountability mechanisms.

Partnerships must also be discussed in relation to local economic development plans and expectations, and will become more relevant if rural land-based investments are integrated explicitly into Strategic District Development Plans. iTC should also increasingly align its work with this approach.

Although only limited lessons have so far been reported by iTC regarding community-investor partnerships, investments in agricultural development, and in the management and utilization of

other natural resources based investments do offer real opportunities to bring community-investor partnership to reality. As stated by ITC (2013), two key lessons are important to promote community-investor partnership:

- **Development of tools that can support involvement of communities in sustainable partnerships.** During the community land delimitation, tools such as: (i) community development agenda, (ii) land use plans and maps; (ii) natural resources inventories, and others, need to be produced to serve as consulting references when establishing partnerships.
- **Development of legal instruments to-based documents that will regulate partnerships.** Standard models for legal documents that reflect the context, objective, and responsibilities of the parties entering into a partnership need to be developed and adopted with nationwide recognition. This may also require promulgation of additional legal regulations for the management of community – investor partnerships to supplement those devised for implementation of the 1997 Land Law and other relevant legislation. Formalized model agreements will reduce disparities in the interpretation of what was agreed during consultation meetings, and will also help to reduce and manage problems that subsequently emerge. They may also help in further exploration of different models of partnerships. To utilize legal instruments like these, rural communities negotiating partnership arrangements are likely to need additional legal awareness raising, capacity building for community leaders and organisations, and support from trained para-legal advisers. This would need to be integrated with or to follow-up community land delimitation processes.

### **3. LAND USE RIGHTS (DUATs) FOR INVESTORS**

As stated earlier, according to the Mozambican land legislation, land use rights for private investments can only be authorized if the following essential requirements are observed:

- Identification of available plot (area for investments), with the involvement of local authorities and local communities;

- Community consultation, after which a written minute is produced and signed by all parties involved (government, communities and investor);
- Project exploitation plan, a technical document that describes how the land is going to be used and managed by the investor along the years.

These requirements demonstrate that rural communities have an important role on defining and guiding the process of attribution of land use rights titles (DUATs). Nevertheless, conflicts over land have been registered as a result of the weaknesses and inefficiencies of community consultation processes carried out for the benefit of large-scale land investors (Cotula, *et al.*, 2006; Terrafirma, 2013), weak institutional capacity (at provincial and local level) to address land management and conduct land administration processes.

There has been an increase on the number of land use right titles issued by the cadastral services since 2009. Figure 2 illustrates the total number of DUATs issued from 2009 to 2012, and the respective area covered.

**INSERT Figure 2. Number of Land Use Right titles issued from 2009 – 2012**

Source: Direcção Nacional de Terras e Florestas, Mozambique

As shown in figure 2, despite a gradual increase on the number of DUATs issued since 2009, the total area covered by DUATs issued on the same period has decreased, due to increased request/approval of small-size plots, when compared to the situation in 2009. Access to information and improvement of land administration capacity might have been some of the reasons behind the increased number of land titles (DUATs) issued during this period. Table 1 presents some other potential factors that could have influenced the pattern described in figure 2.

Further compilation and analysis of SPGC data is needed to understand changing patterns of registration of parcels of different sizes and the breakdown between large scale commercial land uses of different types, sizes, different farm sizes and land registration by individual households and community members, producer associations, small scale commercial farmers and private investors, and land delimitation by rural communities as rights holders.

### **INSERT Table 1. Factors affecting increase on DUAT and decrease on area covered**

The available data suggests a growing trend for registration of more parcels of smaller sizes and a reduction in land allocation for speculative purposes and very large commercial propositions, which, in many cases, have not proven viable and have left land underutilized. This may mean that although arrangements to deliver appropriate technology, skills, financial and business development services to small and medium scale agriculture and community based enterprises are still lacking, the basis for more broad-based prosperous small scale farming and NR utilization is now gradually being established. This, in turn will increase demands for effective land administration and land use management, making community engagement in more systematic and proactive decentralized programmes essential. This will soon become an urgent priority in in development corridors and in regions where haphazard and overlapping land allocation has led to disputes and uncertainties for communities and private investors alike, where a participatory approach to tenure regularization will be needed, including delimitation of community lands, and protection of common property resources including community forests, wetlands, grazing areas and other natural resources on which rural communities continue to rely, alongside agriculture.

Since the approval of the land law in 1997, the Government of Mozambique have been putting effort on securing land (community and individual), while promoting land-based investments and establishing a functional land administration system, but this is a very slow process. All these together have contributed to the dynamics of land allocation, with influences on size, number and type of land use. This land dynamic patter is bringing challenges that require proactive measures and inter-institutional collaboration.

Interventions similar to iTC's contribute to Governments efforts, such as (i) delivering crucial information about land law and its regulations, while improving awareness about land and natural resource management (ii) increase capacity of rural communities in regard to land and other natural resources management.

### **3.1 Supervision of private land allocations and land use development**

According to the land law, all land use rights titles needs to be monitored and supervised by the provincial cadastre. Article 25 determines that a temporary DUATs must be issued for a period of five (5) years for nationals and two (2) years for foreigners. Furthermore, the land law regulation, on its article 32, states that temporary DUATs can be cancelled if the holder does not follow the approved land use plan. Data coming from government supervision, shows that most of land title owners don't use the total land attributed covered by their DUATs, which causes concerns and challenges related to efficiency in use of land and its productivity. In general terms, people are asking for land use rights that are beyond their production capacity.

Table 2, presents de percentage of registered and titled land parcels that were fully utilized land in the country, from 2009 to 2012, based on results of inspection and supervision visits by the provincial cadastral services (SPGCs)

#### **INSERT Table 2. Results from Supervision of DUAT titles**

The numbers show that the cadastral services have increased their capacity and efforts to supervise DUATs, as they are gradually increasing the number of supervised plots yearly. This might be result of increase in the number of staff and support from MCA/MCC project to DNTF. Nevertheless, capacity building and human resources continues to be a bottleneck for the cadastral services at provincial and district level. As a result, it is estimated that cadastral services can only supervise approximately 40% of the total issued land titles, bringing challenges that are directly connected to land administration.

The data also show that land continue to be under-utilized, meaning that DUAT holders are not strictly following their exploitation plans, which is a basic requirement for attribution of land use right titles from the Government. It is estimated that an average of 41% of the total land (and 43% of plots) supervised has been fully used. This fact brings enormous challenges to the DNTF and SPGC in regards to supervision, evaluation of exploitation plans and land allocation.

Underutilized land over the DUATS has a direct impact on the availability of land for future and potential investments, considering that there is an increase on land titling.

Figure 3, illustrates the number of DUATs compared to the number of plots supervised from 2009 to 2012. It is considered that inspection takes place starts one year after DUAT issue, and considering those temporary DUATs last 5 years for Nationals and 2 years for foreigners.

### **INSERT Figure 3. Number of titles issued and number of Monitored parcels**

Source: Direcção Nacional de Terras e Florestas, Mozambique

Since land can be monitored between 1 to 5 years after approval of the temporary DUAT, information presented in figure 4 does not disclose information whether a specific plot have been monitored before. Despite that fact, and assuming that titles issued shall be regularly (yearly) supervised, and number of titles issued shall be cumulative over the years, results show that efficiency in supervision by the cadastral sector was estimated in 40% over the years 2009 to 2012. Extinct titles were not considered in the analysis, as the numbers are significantly low.

As indicated in the recent National Zoning process, it is becoming evident that a more efficient land titling attribution shall be established, and a more systematic and participatory supervision model shall be implemented national wide. This paper brings alternatives to support land use rights supervision, through a more participatory approach that involves delimited communities.

## **4. COMMUNITY MONITORING AND SUPERVISION OF LAND TITLES: AN ALTERNATIVE IN A COMMUNITY DELIMITATION CONTEXT**

Most of the titles issued for land-based investments are related to rural lands and involve transfers of land use rights from local communities to investors, following the procedures described above. However, these communities are not involved in the supervision of investors exploitation plans, and even when it is clear that the land is not being used in its totality or for the purpose that was indicated, communities do not have a space or power to intervene. The role

of local communities as land administration entities is not yet being promoted and strengthened. Bringing community into the land administration system is a difficult challenge, especially in a developing country such as Mozambique, where basic needs such health, education and infrastructures are lacking at community level. However, it is most probably “the right way” of addressing rural land use supervision, specially considering that rural communities, those with customary rights (registered or not), are already being involved in locating and deciding about attribution of land use rights for investments.

This section discusses the key elements that can contribute to the success of integration of rural communities into the land administration process, especially into the supervision activities. These elements are (and needs to be) directly linked to community delimitation activities, specially following community land initiative (iTC) approach, as it constitutes a basic process to empower communities to assert their customary land rights, identify jurisdictional boundaries and gather knowledge about the basics of land management.

#### **4.1 Ownership and accountability**

Community delimitation, as indicated by various authors (Mei *et al.*, 2013; Tanner, 2006; Durang *et al.*, 2004), contributes to reduction of land conflicts and can promote land and natural resources management. As pressure for land is increasing almost in every part of the country, delimitation has been considered as the right and feasible approach to register customary land rights in the country (iTC, 2013). Therefore, the procedures for community land delimitation shall be clear stated among the various legislation, considering that legislation plays important role for improve accountability.

Community land initiative (iTC) approach and methodology are participatory and have proven efficient. It involves at every stage of land delimitation process, the beneficiaries (recipients and surrounding communities) and other stakeholders, for ensure engagement and ownership. These methods include strategic assessment of priorities, social preparation, participatory appraisals and capacity building of beneficiary communities and other actors, including local government



officials, business people, local associations, CBOs and NGOs and extension and outreach workers.

As mentioned before, community consultation is obligatory during the process of attribution of land use right title, particularly for investment purposes. Akesson *et al.* (2009) details the value of a community consultation, and its legal impact in the land use structure and rights of a community.

Evidences of weak community consultations (Mei *et al.*, 2013; Akesson *et al.*, 2009) have been reported, basically as result of low capacity of communities to understand the process (including lack of knowledge of land law), and due to weak or no information about investments plans. Evidences of weak community consultation are also registered in cases where community declined attribution of land to a specific investor, but still, the process continued and a title was issued to the investor.

The *Diploma Ministerial n<sup>o</sup>. 158/2011*, does not seem to have created the desired effect. Empirical data shows that consultations are not effective and that a more comprehensive approach to community consultation needs to be implemented. Therefore, decisions under de community consultation need to be considered at all level of decision making related to attribution of land use rights titles. Considering community opinions during a community consultation process requires a clear definition and identity of a community, which can be achieved through a comprehensive land delimitation process.

Efficient community supervision of private DUATs can occur where communities are clearly identified and registered, as a result of a land delimitation process. Therefore, attribution of DUATs, especially in the case of large-scale investments, require that community land delimitation should take place prior to the attribution of private DUATs, so that the communities affected can participates in the necessary consultation processes using the relevant tools such as (i) Community Development Agenda, resulting from social preparation; (ii) local land and natural resource Management plans, resulting from land-use zoning exercises, and (iii), and occasionally other tools such as forest inventories and natural resources utilization plans, developed with other

stakeholders. In general terms, community land delimitation is a requirement to create ownership and accountability for efficient community land supervision. It must be noted here, that the land law regulation indicates that land delimitation must be a priority in community areas where there are plans for implementing public or private investment projects.

## **4.2 Capacity building, Information sharing and Sensitization**

The success of community consultation depends on the effective involvement of the rural communities (affected) and effective sharing of information regarding the potential investment, previously to the meetings. However, digesting information by rural community requires development of community capacity and skills to address land management issues.

The *Diploma Ministerial n<sup>o</sup>. 158/2011* already foresaw two meetings with communities, in the process of community consultation. The document also leaves space for other meetings, depending on the needs of the affected community.

Information sharing cannot stop after the community consultation phase. Information regarding the land use right title of the investor, such as the exploration plan, type of investments, duration of the title, and social responsibility activities, must be shared with communities, if they are going to be part of the supervision process.

For an efficient involvement of rural communities into land use monitoring and supervision process, social preparation has to be massively implemented in communities and its results shared among different stakeholders. Specific training and tools shall be integrated into the social preparation process, so that communities are better prepared to supervise land use in their communities. A full involvement of the cadastral services, mainly on designing training tools and methods is crucial to the success of this involvement.

### 4.3 Development of Community-based Institutions

Monitoring and supervising of land use requires well-established institutions, both at Government and Community levels. These institutions need to implement all supervising and monitoring activities while contributing to build a solid land administration system. Community land delimitations involve the establishment of Natural Resources Management Committees (NRMC), whose main tasks are to promote good practices towards sustainable natural resources management at community level.

Involving the NRMCs as key community based institutions will unlock their potential to directly engage into sustainable land and natural resources management. However, unlocking their potential requires the following key issues to be considered:

- **Legal recognition.** It is important that the NRMCs are clearly and legally recognized as legitimate entities to be involved in the land administration process, and other natural resources management, mainly at community level. This recognition implies that NRMCs work relation with community leaders also needs to be addresses, as both must be involved in activities and in the main decisions regarding community land management.
- **Capacity building and access to information.** Capacity building support to NRMC needs to be incorporated into a national program, as they are key strategic players in achieving sustainable land and natural resources management. Therefore, access to information and tools, such as laws and regulation, land maps, managements plans, natural resources inventories, and other, needs to be gradually but systematically developed to so they can increase their ability to cope with related responsibilities.
- **Define clear responsibilities and roles.** Institutionalizing NRMC requires setting clear responsibilities of their members in relation to the communities in general and the community leaders in particular. Furthermore, their role in land and natural resources management needs to be clearly defined vis-à-vis other actors including government and the private sector and also separated from other Communities Based Organizations and enterprises. The direct involvement of NRMC in community land consultations is of crucial importance to the local land administration and management process, as it contributes to expanded access to information and helps to improve and plan their

supervision and monitoring roles. Some of the NRMC roles and responsibilities include: **(i)** Involvement in land management, including internal community land use zoning, planning and supervision of land use, and collaboration with the local government authorities in these activities; **(ii)** Involvement in conflict resolution and mitigation; **(iii)** involvement in the DUATs supervision and monitoring; **(iv)** Representation of communities in official meetings and in consultations and negotiation of partnership arrangements with other land users.

- **Access to and management of community funds.** As a community based institution, NRMC needs to be eligible to access part of community funds derived from government taxes levied on natural resource use by third parties. However, management of these funds shall be agreed among the committee members the general community members, and shall be strictly oriented to activities that contribute to fulfillment of their role and responsibilities towards land and natural resources management. Funds for the capacity building and development of community land and natural resources management institutions could potentially be derived from the 20% shares of Forest, Wildlife and Tourism revenues paid to communities and from the fees paid by DUAT holders. A unified revenue and benefit sharing system for NR, tourism, and carbon forestry could be established, which community institutions and local government could utilize in partnership with iTC and other actors to support development of local land management of local land management and administration intuitions.

Setting up a community based institution with responsibilities for local land and NR management can improve transparency on land administrations processes, and offers an innovative mechanism for dealing with illegal land acquisitions and mismanagement of land and other natural resources. Establishing community-based institutions must nevertheless remain part of a longer-term national process of developing land administration, which would require a gradual but systematic training and capacity building programme for members of the Natural Resources Management Committees

Complementary support to improve community literacy and leadership should be provided by educational programs, implemented by the Government or other accredited development

organizations, to increase capacity of rural communities to understand and contribute to development programs.

#### **4.4 Sharing costs and responsibilities**

Monitoring and supervision activities need to be sustainable. The methodological approach to conduct the supervision will define the level of complexity and institutional capacity needed to ensure a sustainable supervision activity. Therefore, integrating communities in the DUAT supervision process, requires coordination and clear division of roles and responsibilities. Therefore, two levels of supervision are suggested:

- **Community level:** Implemented by the Natural Resources Management Committees (NRMC), directly linked to the activities of district cadastral services. This is a more operational level, where communities, based on available information of registered plots, monitor and supervise DUATs. At this level, all updated information should be channeled to the district cadastral services, where it is then processed, stored and channeled to the provincial cadastral services.
- **Provincial level.** At this level, all activities will be implemented by SPGC delivering activities that will complement and assist operational capacity for land rights and land use management at local government and community (NRMC) levels. Activities at this level include supervision and monitoring of large scale DUATs (above 20,000 hectares), reliant on digital land management information systems (LIMS) and methods and tools such as GIS, satellite imagery and purpose developed maps and databases, which are only gradually being introduced at district level

Information of costs involved in the current model of supervision of DUATs is not easily available. However, based on information from some provincial cadastral services, it is estimated that about 50-70% of total available provincial cadastral services budgets is devoted to supervision and monitoring of DUAT allocations. This costs includes (i) payment of daily fees for the cadastral staff involved in the supervision; (ii) fuel for the vehicle; and (iii) maintenance of vehicles affected to the supervision activities. Enhancing community engagement in land management, in addition to its direct benefits, could make considerable savings and

improvements. At present, the cadastral services complain about (i) lack of vehicles and other suitable means of transport; (ii) lack of technical qualified staff; (iii) difficult access to remote areas; and (iv) lack of funds, as main constraints involved in the current model of supervision of DUAT allocations and land use monitoring.

As suggested earlier, involving Natural Resources Management Committees (NRMC) in the national supervision process will require access to funds from the community and any other sources, mainly resulting from revenue shares of the government taxes levied on natural resource use by investors. Accessing these funds might contribute to reducing the cost of the current model of supervision by the cadastral services. Furthermore, involving NRMC in the DUAT supervision should not require allocation of funds from the cadastral service itself provided minimal levels of NRMC operating costs can be met from NR revenue shares, community income generation and assistance from private or NGO development partners. Better land and natural resources management should also improve local investment partnerships and consequently assist in generating funds for community NRMCs. Nevertheless, a better cost and funding structure needs to be developed for local management as a whole, and specifically for setting up decentralized management and supervision structures using the suggested approach of participatory monitoring.

## **5. CONCLUSION AND CHALLENGES**

This document has tried to discuss issues that can boost the opportunity for including rural communities into the land administration system. Key issues that need to be addressed to better improve results of the suggested approach were presented and discussed. However, defining a suitable mechanism to operationally involve communities requires a collaborative discussion between cadastral services, communities and supporting institutions, such as those supporting community land delimitations.

The suggested participatory approach to improve land administration reflects some key lessons learned by the Community Land initiative (iTC) during its eight years of intervention in supporting Government and communities themselves to secure community land rights.

### **Delimitation as prior step to private land titling**

Community land delimitation as a process to improve accountability and empowering rural communities shall be secured for in every single community indentified in the country, particularly before titling of large scale land investments. Furthermore, this process shall be complemented with a legal empowerment, where community rural communities are recognized as an entity that can support land administration and natural resources management.

Adoption of improved procedures (guidelines) for land delimitations and community consultations, including community empowerment through use of participatory methods, such as social preparation, must be promoted and be massively disseminated and integrated in the local level planning activities. As a planning tool, social preparation processes also need be integrated into at district level planning, involving in multiple stakeholders, even in circumstances where community land delimitations have not been undertaken prior to formulation of investment plans and allocations of land rights to investors and private land users.

Establishing Natural Resources Management Committees as a legally recognized and leading local institutions to address land and natural resources management is of prime importance. Efforts to better empower and elevate their legitimacy, will improve community consultation and the sustainability of community relations with third parties (investors and other individuals or group of individuals with land use titles).

### **Capacity building of rural communities**

As communities are playing important roles in natural resources management, a solid and consistent community capacity building approach needs to be adopted to meet the actual land dynamic in the country, while responding to the involvement of the communities into the land

administration system mechanism. As suggested, capacity building programs shall include setting appropriate institutional structure, while defining training and information dissemination paths, that can improve knowledge towards an integrated land and natural resources management by rural communities members.

A training program to improve knowledge about procedures, legislation and best practices to integrate rural communities, as viable entities in the land administration must be conducted as soon as a strategy for participatory land administration and management is approved. Delivering the training programs will require collaboration between recognized institutions that are already supporting rural communities on various rural development activities.

### **Cost sharing**

An effective and operational cost structure needs to be agreed among parties involved in the land administration system. However, improvement of use and management of the current available sources of income at community level, such as from forest and tourism revenues, can contribute to set a cost structure at the community level. However, the suggested approach implies reduction of monitoring cost by the Cadastral services.

In order to integrate local communities into the land administration system, a systematic and inclusive decentralization of Cadastral service needs to be considered when bringing community to. A cascade approach, with focusing on building capacity at District government level and gradually extending to collaboration between communities and local administrative authorities could potentially deliver the suggested approach at a more sustainable cost.

The anticipated impacts of wider adoption by government of this approach and the legislative revisions recommended include greater transparency in land allocation, titling and management, and reduced supervision costs in establishment of a more systematic, efficient and equitable approach to land management system.



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## List of Tables

**Table 1.** Factors affecting increase on DUAT and decrease on area covered

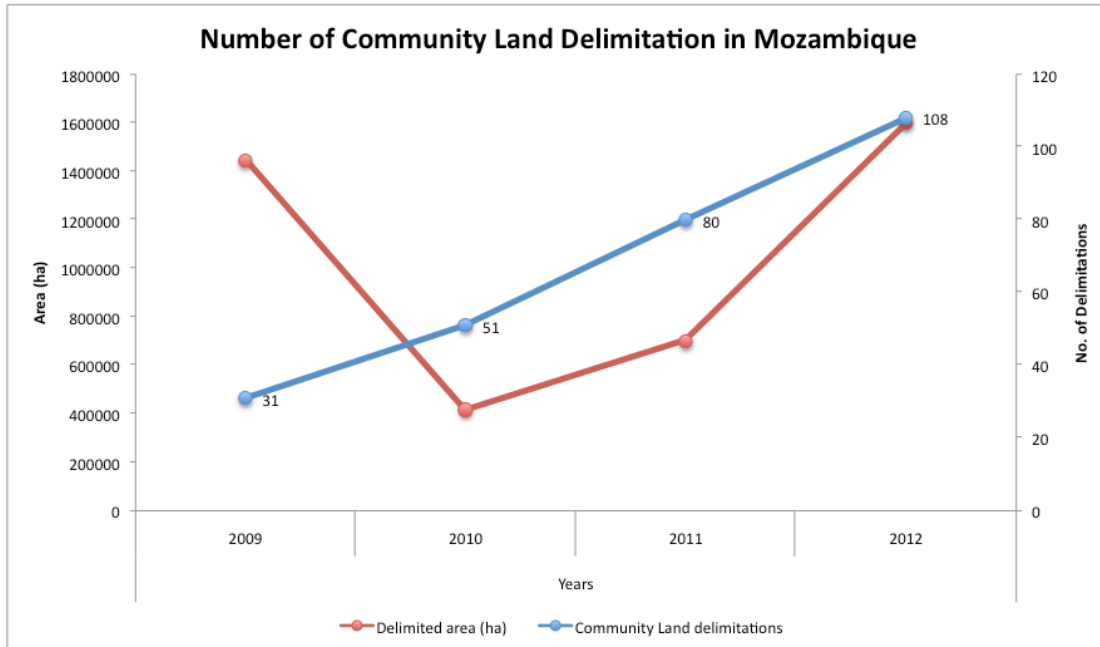
Factors affecting the increase of DUATs	Factors affecting the decrease of total area covered by DUATs
1. Access to information (land and other legislation) by the population	1. Access to information (land legislation including DUATs annual fees, costs and procedures)
2. Improvement of Cadastral services capacity (human resources and expansion to Districts)	2. Registration of individual DUATs by low income population (community level)
3. Implementation of ITC project (Dissemination of land law, capacity building of rural communities and land demarcation)	3. Improved capacity of cadastral services (to evaluate land use plans, therefore not approving large land requests)
4. Application of 90 days DUATs emission deadline procedure (to reduce tramitation period)	4. Lack of financial support to large agriculture projects
5. Access to rural credit services and development projects by rural communities and CBO's	5. Community land delimitation (including zoning) plus improvement of community consultation procedures
6. Land insecurity and increase of foreing investments	6. Scatter distribution of population

**Table 2.** Results from Supervision of DUAT titles

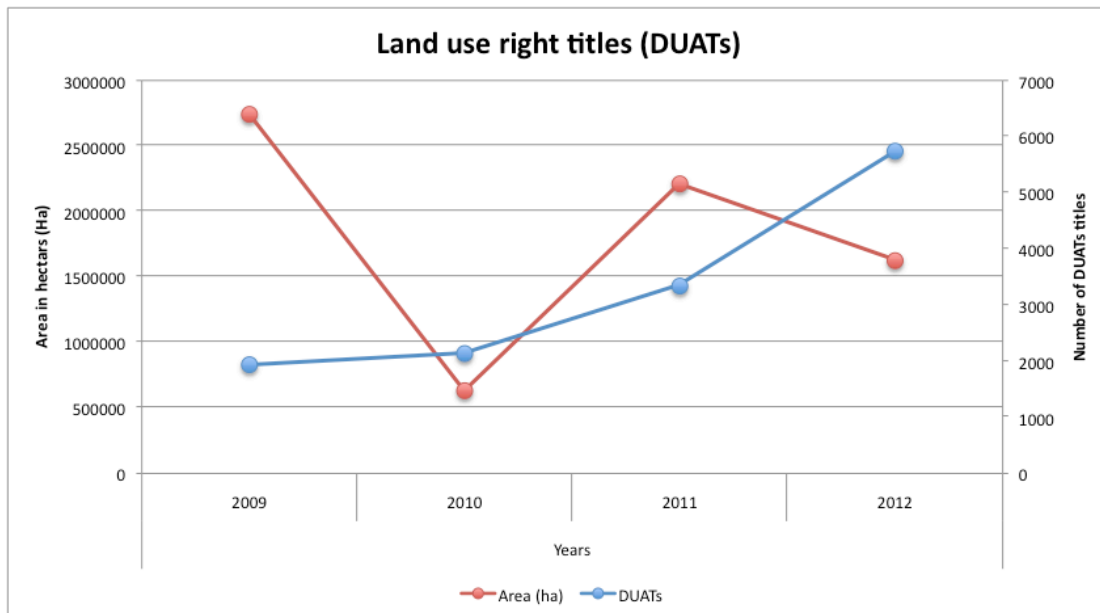
	2009	2010	2011	2012
<b>Supervised plots</b>	805	1562	1362	1263
<b>No. of Integral used plots</b>	333	561	768	460
<b>% of plots in integral use</b>	41%	36%	56%	36%
<b>Area covered by supervised plots (in Ha)</b>	539,681.33	577,583.34	455,235.99	1,855,035.94
<b>Area covered by integral used plots (in Ha)</b>	308,156.87	198,383.76	249,465.89	358,403.25
<b>% of land integral used</b>	57%	34%	55%	19%

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**Figure 1.** Number of community land delimitations (2009 – 2012)



**Figure 2.** Number of Land Use Right titles issued from 2009 – 2012



**Figure 3.** Number of titles issued and number of Monitored parcels

